THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No. 11571 of 1998
Date: 07-11-2007

Between:
M.Durga Prasad

Petitioner

And

The Presiding Officer,
Industrial Tribunal cum Labour Court,
Visakhapatnam and another

Respondents

THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No. 11571 of 1998

ORDER:

1. The writ petition has been preferred against the Award passed in I.D.No. 186 of 1993 instituted by the second respondent in this writ petition.

2. Heard Sri Sitaram, on behalf of the learned counsel for the petitioner and none for the respondents.

3. It is the case of the second respondent before the Tribunal that while he was working as a checker on a bus operated by the petitioner herein, his services came to be terminated abruptly on 1.7.1992 without complying with the provisions of Section 25-F of the Industrial Disputes Act, 1947 (for short 'the I.D. Act').

4. Before the Tribunal, the second respondent herein has examined himself as W.W.1 and also examined two other witnesses as WWs 2 and 3 and exhibited documents W.1 to W.14. He deposed that he worked as a checker between November, 1983 to July,1992 i.e. up to the date of termination of services and since the termination of services is not for any fault attributed to him and is brought about abruptly without following any procedure whatsoever, the same amounts to retrenchment and hence, the same is liable to be declared as bad being contrary to the provisions contained under Section 25- F of the I.D. Act. The second respondent herein has also deposed before the Tribunal that at

the time his services came to be terminated, he was drawing wages of Rs.1150/- and therefore he answers in all respects by the very nature of employment, duties performed by him and the wages received by him, the expression of 'workman' as is found in Section 2 (s) of the I.D. Act.

5. Per contra, the writ petitioner herein has examined himself as management witness and he has filed letter dated 24.1.1993 as an exhibit.

6. Upon consideration of the circumstances, the Tribunal had arrived at a finding of fact that the second respondent herein is a workman and that it is just and proper to award compensation of Rs.10,000/- instead of ordering for the reinstatement of the second respondent as the Bus service is not in operation. No material has been brought on record to demonstrate that this finding recorded by the Tribunal to be perverse in any manner calling for interference in exercise of writ jurisdiction. I therefore, do not find any merit in this writ petition which warrants to disturb the award passed by the Tribunal for payment of Rs.10,000/- as compensation.

7. Hence, the writ petition is dismissed. No order as to costs.

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NOOTY RAMAMOHANA RAO,J

07-11-2007
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